

INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

New Section 80007(a)(17)

Specific Purpose:

The specific purpose is to adopt this section to specify that any housing project for elderly or disabled individuals must meet the federal requirements specified in Health and Safety Code Section 1505(o).

Factual Basis:

In 1998 the legislature enacted AB 2686, Chapter 945, Statutes of 1998. AB 2686 added Health and Safety Code Sections 1505 and 1568.03 requiring any housing project for elderly or disabled persons, or both, where supportive services are made available to residents, to comply with the federal requirements specified in Health and Safety Code Section 1505(o) when seeking exemption from licensure. Adoption of Section 80007(a)(17) ensures consistency with the provisions of Health and Safety Code Sections 1505 and 1568.03.

New Handbook Section 80007(a)(17)

Specific Purpose:

The specific purpose is to adopt, as Handbook, the provisions of Health and Safety Code Section 1505(o). Health and Safety Code Section 1505(o) specifies the federal requirements any housing project for elderly or disabled persons, or both, where supportive services are made available to residents, must comply with when seeking an exemption-from-licensure.

Factual Basis:

In 1998 the legislature enacted AB 2686, Chapter 945, Statutes of 1998. AB 2686 added Health and Safety Code Sections 1505 and 1568.03 requiring any housing project for elderly or disabled persons, or both, where supportive services are made available to residents, when seeking exemption from licensure, to comply with the federal requirements specified in Health and Safety Code Section 1505(o). Adoption of Section 80007(a)(17)(A) as Handbook ensures consistency with the federal requirements in Health and Safety Code Section 1505(o).

Sections 80007(a)(18) and (a)(19)

Specific Purpose:

The specific purpose is to renumber existing Section 80007(a)(17) as new Section 80007(a)(18) and renumber existing Section 80007(a)(18) as new Section 80007(a)(19).

Factual Basis:

Renumbering these sections is necessary to maintain a consistent numerical sequence due to the adoption of new Section 80007(a)(17).

New Section 87101(s)(3)

Specific Purpose:

The specific purpose is to adopt the definition of the term “Significant Other.”

Factual Basis:

Adoption of this section is necessary to define the term “Significant Other”. Adopting Section 87101(s)(3) ensures consistency with the provisions of Residential Care Facilities for the Chronically Ill (RCF-CI) regulations, Section 87800 et seq.

Sections 87101(s)(3) through (s)(7)

Specific Purpose:

The specific purpose is to renumber existing Section 87101(s)(3) as new Section 87101(s)(4); renumber existing Section 87101(s)(4) as new Section 87101(s)(5); renumber existing Section 87101(s)(5) as new Section 87101(s)(6); renumber existing Section 87101(s)(6) as new Section 87101(s)(7); and renumber existing Section 87101(s)(7) as new Section 87101(s)(8).

Factual Basis:

Renumbering these sections is necessary to maintain a consistent numerical sequence due to the adoption of new Section 87101(s)(3).

New Section 87102(a)

Specific Purpose:

The specific purpose is to identify the form LIC 9117 (2/00) – Emergency Approval to Operate which applies to the regulations in Title 22, Division 6, Chapter 8 (RCFE).

Factual Basis:

Adoption of this section is necessary to incorporate this form by reference to ensure consistent application to the regulations in Title 22, Division 6, Chapter 8 (RCFE).

Sections 87102(b) through (e)

Specific Purpose:

The specific purpose is to renumber existing Section 87102(a) as new Section 87102(b); renumber existing Section 87102(b) as new Section 87102(c); renumber existing Section 87102(c) as new Section 87102(d); renumber existing Section 87102(d) as new Section 87102(e).

Factual Basis:

Renumbering these sections is necessary to maintain a consistent numerical sequence due to the adoption of new Section 87102(a).

Section 87107(a)(7)

Specific Purpose:

The specific purpose is to 1) delete the word “relative” and 2) adopt the definition of the term “family member”. As amended, Section 87107(a)(7) exempts from licensure those arrangements where care and supervision are provided by a family member to an elderly relative or relatives.

Factual Basis:

In 1991, the legislature enacted SB 994, Chapter 888 (Statutes of 1991). SB 994 added Health and Safety Code Sections 1569.145(f)(1) and 1569.145(h). Amending this section to delete the word “relative” and adopt the definition of “family member” formally exempts those arrangements where care and supervision are provided by a family member to an elderly relative or relatives from licensure. These amendments to Section 87107(a)(7) ensures consistency with the provisions of Health and Safety Code Sections 1569.145(f)(1) and 1569.145(h).

New Section 87107(a)(9)

Specific Purpose:

The specific purpose is to adopt this section to clarify that any housing project for elderly or disabled individuals that meets certain federal requirements specified in Health and Safety Code Section 1569.145(g) is exempt from licensure. Section 87107(a)(9) exempts any housing project for elderly or disabled persons, or both, where supportive services are made available to residents from licensure under certain circumstances identified in Handbook, Section 87107(a)(9)(A). Adoption of Section 87107(a)(9) ensures consistency with the provisions of Health and Safety Code Section 1569.145(g).

Factual Basis:

Health and Safety Code Section 1569.145(g) states that by complying with certain circumstances that any housing project for elderly or disabled persons, or both, that meets specified federal requirements and where supportive services are made available to residents may seek exemption from licensure. Adoption of Section 87017(a)(9) ensures consistency with Health and Safety Code Section 1569.145(g).

New Handbook Section 87107(a)(9)

Specific Purpose:

The specific purpose is to adopt Handbook in Section 87107(a)(9). Within this handbook are stated the provisions of Health and Safety Code Section 1569.145(g). Health and Safety Code Section 1569.145(g) identifies the certain circumstances that must be complied with by any housing project for elderly or disabled persons, or both, that meets specified federal requirements and where supportive services are made available to residents, when seeking exemption from licensure.

Factual Basis:

Health and Safety Code Section 1569.145(g) identifies those certain circumstances that must be complied with by any housing project for elderly or disabled persons, or both, that meets specified federal requirements and where supportive services are made available to residents, when seeking exemption from licensure.

New Section 87107(a)(10)

Specific Purpose:

The specific purpose is to renumber existing Section 87107(a)(9) as new Section 87107(a)(10).

Factual Basis:

Renumbering existing Section 87107(a)(9) as new Section 87107(a)(10) is necessary to maintain a constant numerical sequence due to the addition of new Section 87107(a)(9)(A).

Section 87114

Specific Purpose:

The specific purpose is to amend the title of Section 87114 by adding the phrase “SALE OF PROPERTY” to the title.

Factual Basis:

Amending the title is necessary to inform the reader that Section 87114 contains regulations concerning the sale of property.

Section 87114(b)

Specific Purpose:

The specific purpose is to amend this Section to 1) delete the following text: “the licensing agency shall be permitted to consent to an adult relative operating a previously licensed facility providing the requirements of Section 1569.193 of the Health and Safety Code are met” and 2) adopt the following text: “an adult who has control of the property, and had been designated by the licensee as the party responsible to continue operation of the facility upon a licensee’s death shall:”.

Factual Basis:

Amending this section clarifies 1) the steps that must transpire when a licensee dies and, 2) the requirements, that an adult, with control of the property, and proper designation, must complete to establish licensure.

Handbook Sections 87114(b)(1) through (b)(1)(c)

Specific Purpose:

Delete this entire Handbook, including Sections 87114(b)(1) through (b)(1)(c) from these regulations.

Factual Basis:

Deletion of this entire Handbook is necessary because the Sections 87114(b)(1) through (b)(1)(c) refer to obsolete Health and Safety Code Section 1569.193 requirements.

Sections 87114(b)(2) through (b)(5)(C)

Specific Purpose:

Delete these Sections from these regulations.

Factual Basis:

Deletion of these Sections is necessary because they refer to obsolete Health and Safety Code Section 1569.193 requirements.

New Section 87114(b)(1)

Specific Purpose:

The specific purpose of this section is to identify one of the provisions of Health and Safety Code Section 1569.193 that an adult, as defined in Section 87114(b), must comply with to establish licensure when a licensee dies.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Section 87114(b)(1) identifies one of the requirements an adult, as defined in Section 87114(b), must complete to establish licensure when a licensee dies. Adoption of Section 87114(b)(1) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(b)(2)

Specific Purpose:

The specific purpose is to identify one of the provisions specified by Health and Safety Code Section 1569.193 that an adult, as defined in Section 87114(b), must complete to establish licensure when a licensee dies.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Section 87114(b)(2) identifies one of the requirements an adult, as defined in Section 87114(b), must complete to establish licensure when a licensee dies. Adoption of Section 87114(b)(2) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(b)(2)(A)

Specific Purpose:

The specific purpose is to 1) identify that a “designee” is the adult relative or other nonrelated adult who has been designated as the controller of the property, and has been designated by the licensee as the party responsible to continue operation of the facility upon a licensee’s death, and 2) specify that the Department will help the designee develop and implement a relocation plan for the facility residents if the designee decides not to apply for licensure.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994) which added Health and Safety Code Section 1569.193. Section 87114(b)(2)(A) specifies that the

Department will help the designee develop and implement a relocation plan for the facility residents if the designee decides not to apply for licensure. Adoption of Section 87114(b)(2)(A) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(c)

Specific Purpose:

The specific purpose is to specify that, provided certain Health and Safety Code Section 1569.193 requirements are complied with, the Department may permit a designee, as defined by Section 87114(b)(2)(A), to continue operation of a previously licensed facility and grant an Emergency Approval to Operate (EAO) (LIC 9117) to a facility for up to 60 days pending issuance or denial of a license.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Adoption of Section 87114(c) clarifies that, pending compliance with the provisions of Sections 87114(c)(1)-(5) et seq., the Department may permit a designee to continue operation of a previously licensed facility and grant EAO a facility for up to 60 days pending issuance or denial of a license.

New Section 87114(c)(1)

Specific Purpose:

The specific purpose of this section is to identify one of the Health and Safety Code Section 1569.193 requirements that a designee, as defined in Section 87114(b)(2)(A), must comply with to establish licensure when a licensee dies.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Adoption of Section 87114(c) clarifies that, provided the requirements of Health and Safety Code Section 1569.193 are complied with, the Department may permit the a designee, as defined by Section 87114(b)(2)(A), to continue operation of a previously licensed facility and grant an EAO to a facility for up to 60 days pending issuance or denial of a license.

New Sections 87114(c)(2) through (c)(2)(B)

Specific Purpose:

The specific purpose is to identify the following three requirements specified by Health and Safety Code Section 1569.193 that must be complied with by a designee, as defined by Section 87114(b)(2)(A), before the Department may permit the continued operation of a previously licensed facility and grant an EAO to a facility for up to 60 days pending

issuance or denial of a license: 1) A notarized designation of the adult, as defined in Section 87114(b), must be filed with the Department; 2) the notarized designation required by Section 87114(c)(2) must be signed by the designee, as defined by Section 87114(b)(2)(A), and 3) the notarized designation required by Section 87114(c)(2) must contain or be accompanied by a declaration under penalty of perjury regarding any criminal convictions of the designee.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Health and Safety Code Section 1569.193 requires that a notarized designation of the adult, as defined in Section 87114(b), must be filed with the Department. Adoption of Section 87114(c)(2) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

Health and Safety Code Section 1569.193 requires that the notarized designation required by Section 87114(c)(2) must be signed by the designee, as defined by Section 87114(b)(2)(A), indicating acceptance of the designation. Adoption of new Section 87114(c)(2)(A) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

Health and Safety Code Section 1569.193 requires that the notarized designation required by Section 87114(c)(2) must contain or be accompanied by a declaration under penalty of perjury regarding any criminal convictions of the designee, as defined by Section 87114(b)(2)(A). Adoption of new Section 87114(c)(2)(B) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(c)(3)

Specific Purpose:

The specific purpose of this Section is to identify one of the Health and Safety Code Section 1569.193 requirements that an adult, as defined in Section 87114(b), must comply with before the Department may permit the continued operation of a previously licensed facility and grant an EAO to a facility for up to 60 days pending issuance or denial of a license.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Adoption of Section 87114(c)(3) clarifies that the designee, as defined by Section 87114(b)(2)(A), must be able to operate the facility to the satisfaction of the Department. Adoption of Section 87114(c)(3) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(c)(4)

Specific Purpose:

The specific purpose of this section is to identify one of the Health and Safety Code Section 1569.193 requirements that an adult, as defined in Section 87114(b), must comply with before the Department may permit the continued operation of a previously licensed facility and grant an EAO to a facility for up to 60 days pending issuance or denial of a license.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Adoption of Section 87114(c)(4) requires that the designee, as defined by Section 87114(b)(2)(A), must file an application for licensure, and provide a copy of the licensee's death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee, within 20 calendar days of the licensee's death. Adoption of Section 87114(c)(4) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Sections 87114(c)(5) through (c)(5)(B)

Specific Purpose:

The specific purpose of these sections is to identify the following three requirements specified by Health and Safety Code Section 1569.193 that an adult, as defined in Section 87114(b), must comply with before the Department may permit the continued operation of a previously licensed facility and grant an EAO to a facility for up to 60 days pending issuance or denial of a license.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193 et seq.

Health and Safety Code Section 1569.193 clarifies that the designee, as defined by Section 87114(b)(2)(A), who is issued an EAO, shall perform all the duties, functions, and responsibilities required of a licensee as specified by Sections 87114(c)(5)(A) and (c)(5)(B). Adoption of Section 87114(c)(5) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

Health and Safety Code Section 1569.193 clarifies that should the designee, as defined by Section 87114(b)(2)(A), fail to comply with licensing laws and regulations specified by Section 87114(b), their application for license shall be denied. This denial shall also constitute termination of the EAO. Adoption of new Section 87114(c)(5)(A) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

Health and Safety Code Section 1569.193 clarifies that the licensing agency shall provide written notification of the denial, as specified by new Section 87114(c)(5)(A), and this notice shall be effective immediately upon receipt. Adoption of new Section 87114(c)(5)(B) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(d)

Specific Purpose:

The specific purpose is to adopt Section 87114(d). Section 87114(d) clarifies that within 60 days after receipt of a completed application, as required by Section 87114(c)(4), the Department shall determine whether a license will be issued.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 1558 added Health and Safety Code Section 1569.193. Adoption of Section 87114(d) requires that within 60 days after receipt of a completed application, as required by new Section 87114(c)(4), the Department shall determine whether a license will be issued. Adoption of Section 87114(d) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(e)

Specific Purpose:

The specific purpose is to adopt Section 87114(e). Section 87114(e) clarifies that, following receipt of a completed application, the designee, as defined by Section 87114(b)(2)(A), shall not be considered to be operating an unlicensed facility while the Department decides whether to grant the license.

Factual Basis:

In 1994, the legislature enacted SB 1558, Chapter 1088 (Statutes of 1994). SB 155 added Health and Safety Code Section 1569.193. Adoption of Section 87114(e) clarifies that following receipt of a completed application, the designee, as defined by Section 87114(b)(2)(A), shall not be considered to be operating an unlicensed facility while the Department decides whether to grant the license. Adoption of new Section 87114(e) ensures consistency with the provisions of Health and Safety Code Section 1569.193.

New Section 87114(f) renumbered from Section 87114(c)

Specific Purpose:

The specific purpose is to renumber Section 87114(c) to Section 87114(f) and to clarify that, in the event of the sale and transfer of property and business, the applicant (buyer)

shall be issued an EAO if the licensee (seller) complies with the provisions of Health and Safety Code Section 1569.191.

Factual Basis:

In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an EAO if the licensee (seller) complies with the provisions of Health and Safety Code Section 1569.19. Section 87114(f) ensures consistency with the provisions of Health and Safety Code Section 1569.191.

New Handbook Sections 87114(f)(1)(b)(1) and (f)(1)(b)(2)

Specific Purpose:

The specific purpose is to clarify the following provisions of Health and Safety Code Section 1569.191 in new Handbook Section 87114(f)(1)(b):

1. The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency. This is being adopted as Handbook Section 87114(f)(1)(b)(1).
2. The prospective buyer shall submit an application for a license, as specified in Health and Safety Code Section 1569.15, within five days of the acceptance of the offer by the seller. This is being adopted as Handbook Section 87114(f)(1)(b)(2).

Factual Basis:

Health and Safety Code Section 1569.191 specifies that the seller shall notify, in writing, a prospective buyer of the necessity to obtain a license if the buyer's intent is to continue operating the facility as a residential care facility for the elderly. The seller shall send a copy of this written notice to the licensing agency. The prospective buyer shall submit an application for a license within five days of the acceptance of the offer by the seller as specified in Health and Safety Code Section 1569.15.

Handbook Section 87114(f)(1)(c)

Specific Purpose:

The specific purpose is to amend Handbook Section 87114(f)(1)(c) to specify that no sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice of sale has been provided pursuant to the provisions specified by Handbook Sections 87114(f)(1)(a)(1) and 87114(f)(1)(a)(2).

Factual Basis:

Health and Safety Code Section 1569.191 specifies no sale of the facility shall be permitted until 30 days have elapsed from the date upon which notice has been provided. This action ensures consistency with the provisions of Health and Safety Code Section 1569.191.

Section 87114(g) renumbered from Section 87114(d)

Specific Purpose:

The specific purpose is to renumber Section 87114(d) to Section 87114(g).

Factual Basis:

Renumbering Section 87114(d) to Section 87114(g) is necessary to maintain a constant numerical sequence for consistency and clarity.

Section 87118(a)

Specific Purpose:

The specific purpose is to amend this section to add the text, “actual or perceived sexual orientation” to the first sentence.

Factual Basis:

Section 87118(a) is being amended to be consistent with a petition the Department received pursuant to Government Code Section 11340.6. This petition requested that Section 87118(a) of the RCFE regulations be amended to address discrimination against residents in licensed facilities. Section 87118(a) is being amended to ensure that all licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin, actual or perceived sexual orientation or ancestry.

Section 87222(a)(6)

Specific Purpose:

This specific purpose is to amend this Section to 1) repeal the existing reference to Section 87510 and 2) adopt the reference to Section 87565(c).

Factual Basis:

The reference to Section 87510 is incorrect. The reference to Section 87565(c) is the correct citation.

New Section 87222(a)(11)

Specific Purpose:

The specific purpose is to adopt Section 87222(a)(11) to require the referring agency or facility, or its designee, as defined by Section 87114(b)(2)(A), to provide to the administrator of an RCFE all information in its possession concerning any history of dangerous propensity of the client prior to placement in the RCFE.

Factual Basis:

In 1996, the legislature enacted SB 571, Chapter 434 (Statutes of 1996). SB 571 added Health and Safety Code Section 1569.316(a). Section 87222(a)(11) requires the referring agency or facility, or its designee, as defined by Section 87114(b)(2)(A), to provide to the administrator of an RCFE all information in its possession concerning any history of dangerous propensity of the client prior to placement in the RCFE. Adoption of Section 87222(a)(11) ensures consistency with the provisions of Health and Safety Code Section 1569.316(a).

New Section 87227.1

Specific Purpose:

The specific purpose is to adopt Section 87227.1 to require the Department to establish a theft and loss prevention program and detailed procedures to investigate occurrences of theft and loss.

Factual Basis

In 1988, the legislature enacted AB 3624, Chapter 750 (Statutes of 1988). AB 3624 added Health and Safety Code Sections 1569.152 and 1569.153. Section 87227.1 requires the Department to establish a theft and loss prevention program and detailed procedures to investigate occurrences of theft and loss. Adoption of new Section 87227.1 ensures consistency with the provisions of Health and Safety Code Section 1569.153.

New Section 87227.1(a)

Specific Purpose:

The specific purpose is to adopt Section 87227.1(a) specifying that the licensee shall establish an adequate theft and loss program as specified in Health and Code Section 1569.153.

Factual Basis:

In 1988, the legislature enacted AB 3624, Chapter 750 (Statutes of 1988). AB 3624 added Health and Safety Code Sections 1569.152 and 1569.153. Section 87227.1(a)

requires the Department to establish a theft and loss prevention program and detailed procedures to investigate occurrences of theft and loss. Adoption of new Section 87227.1(a) ensures consistency with the provisions of Health and Safety Code Section 1569.153.

New Section 87227.1(a)(1)

Specific Purpose:

The purpose is to adopt Section 87227.1(a)(1) requiring the Department to establish a theft and loss prevention program and detailed procedures to investigate occurrences of theft and loss as specified by Health and Code Section 1569.153.

Factual Basis:

In 1988, the legislature enacted AB 3624, Chapter 750 (Statutes of 1988). AB 3624 added Health and Safety Code Sections 1569.152 and 1569.153. Section 87227.1(a)(1) requires the Department to establish a theft and loss prevention program and detailed procedures to investigate occurrences of theft and loss. Adoption of new Section 87227.1(a)(1) ensures consistency with the provisions of Health and Safety Code Section 1569.153.

New Sections 87227.1(a)(2) and (a)(2)(A)

Specific Purpose:

The purpose is to adopt Sections 87227.1(a)(2) and (a)(2)(A) to require that a civil penalty shall be levied if the licensee or facility staff have not implemented the theft and loss program in place, or if the licensee has not shown clear and convincing evidence of its efforts to meet all of the requirements specified by Health and Code Section 1569.153.

Factual Basis:

In 1988, the legislature enacted AB 3624, Chapter 750 (Statutes of 1988). AB 3624 added Health and Safety Code Sections 1569.152 and 1569.153. Sections 87227.1(a)(2) and (a)(2)(A) requires the Department to 1) establish a theft and loss prevention program and detailed procedures to investigate occurrences of theft, and 2) inform the licensee or facility staff that a civil penalty shall be levied if a theft and loss program has not been implemented or if the licensee has not shown clear and convincing evidence of its efforts to meet all of the requirements set specified by Health and Code Section 1569.153. Adoption of Sections 87227.1(a)(2) and (a)(2)(A) ensures consistency with the provisions of Health and Safety Code Section 1569.153.

New Handbook Section 87227.1(a)(3)

Specific Purpose:

The specific purpose is to adopt, as handbook, the provisions of Health and Safety Code Section 1569.153 regarding a detailed theft and loss prevention program.

Factual Basis:

In 1988, the legislature enacted AB 3624, Chapter 750 (Statutes of 1988). AB 362 added Health and Safety Code Sections 1569.152 and 1569.153. Adoption of Section 87227.1(a)(3) as Handbook provides a detailed explanation of the theft and loss prevention program and procedures to investigate occurrences of theft as required by Health and Safety Code Section 1569.153.

New Section 87227.1(a)(4)

Specific Purpose:

The specific purpose is to adopt Section 87227.1(a)(4). Section 87227.1(a)(4) requires, as a provision of the Department's detailed theft and loss prevention program, that the facility's contract of admission, including all documents a resident or his or her representative must sign as a condition of admission, shall not require or suggest a lesser standard of responsibility for the personal property of residents than the law requires.

Factual Basis:

In 1988, the legislature enacted AB 3624, Chapter 750 (Statutes of 1988). AB 3624 added Health and Safety Code Sections 1569.152 and 1569.153. Section 87227.1(a)(4) specifies that the facility contract and documents cannot require or suggest less responsibility for a resident's personal property than is required by Health and Safety Code Section 1569.153. Adoption of Section 87227.1(a)(4) ensures consistency with the provisions of Health and Safety Code Sections 1569.152 and 1569.153.

Existing Section 87561(a)(1)(A)

Specific Purpose:

The specific purpose is to amend existing Section 87561(a)(1)(A) to include the phrase "regardless of where the death occurred, including but not limited to a day program, a hospital, en route to or from a hospital, or visiting away from the facility".

Factual Basis:

To ensure statewide reporting consistency, the Department is amending Section 87561(a)(1)(A) to require all licensed facilities to report the death of any resident from any cause regardless of where the death occurred, including but not limited to a day program, a hospital, en route to or from a hospital, or visiting away from the facility.

## New Section 87583.1

### Specific Purpose

The specific purpose is to adopt new Section 87583.1 - RESIDENT PARTICIPATION IN DECISIONMAKING.

### Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87583.1 establishes a process for resident participation in decisionmaking. The specific provisions of the resident participation in decisionmaking process are clarified in Sections 87583.1(a) and 87583.1(a)(1)-(4). Adoption of Section 87583.1 ensures consistency with the provisions of Health and Safety Code Section 1569.156.

## New Section 87583.1(a)

### Specific Purpose:

The specific purpose is to adopt Section 87583.1(a) to specify that, prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.

### Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87583.1(a) specifies that, prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility. Adoption of Section 87583.1(a) ensures consistency with Health and Safety Code Section 1569.156.

## New Section 87583.1(a)(1)

### Specific Purpose:

The specific purpose is to adopt Section 87583.1(a)(1) to specify that, at a minimum, the written record referenced in Section 87583.1(a), shall include the date of the meeting, name of individuals who participated and their relationship to the resident, and the agreed-upon services to be provided to the resident.

Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87583.1(a)(1) specifies that, at a minimum, the written record, referenced in new Section 87583.1(a), shall include the date of the meeting, name of individuals who participated and their relationship to the resident, and the agreed-upon services to be provided to the resident. Adoption of Section 87583.1(a)(1) ensures consistency with the provisions of Health and Safety Code Section 1569.156.

New Section 87583.1(a)(2)

Specific Purpose:

The specific purpose is to adopt Section 87583.1(a)(2) to specify if the resident has a regular physician the licensee shall send a copy of the record to the physician, one of the provisions of the process for resident participation in decisionmaking as required by Health and Safety Code Section 1569.156.

Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87583.1(a)(2) specifies if the resident has a regular physician the licensee shall send a copy of the record to the physician. Adoption of Section 87583.1(a)(2) ensures consistency with the provisions of Health and Safety Code Section 1569.156.

New Section 87583.1(a)(3)

Specific Purpose

The specific purpose is to adopt Section 87583.1(a)(3) to specify one of the provisions of the process for resident participation in decisionmaking as required by Health and Safety Code Section 1569.156, i.e. that the licensee must arrange a meeting with the resident and appropriate individuals to review and revise the written record when there is significant change in the resident's condition, or once every 12 months, whichever occurs first. The term "significant change" as used in this Section is cross-referenced to Section 87587.

Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87583.1(a)(3) specifies that the

licensee must arrange a meeting with the resident and appropriate individuals to review and revise the written record when there is significant change in the resident's condition, or once every 12 months, whichever occurs first. Adoption of Section 87583.1(a)(3) ensures consistency with Health and Safety Code Section 1569.156.

The term "significant change" as used in this Section is cross-referenced to Section 87587 to also ensure consistency with Health and Safety Code Section 1569.156.

#### New Section 87583.1(a)(4)

##### Specific Purpose:

The specific purpose is to adopt Section 87583.1(a)(4) to specify that the meeting and documentation described in this section may be used to satisfy the reappraisal requirements of Section 87587 and Health and Safety Code Section 1569.156.

##### Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87583.1(a)(4) specifies that the meeting and documentation described in this section may be used to satisfy the reappraisal requirements of Section 87587. Adoption of Section 87583.1(a)(4) ensures consistency with the provisions of Health and Safety Code Section 1569.156.

#### Section 87585(a) through (a)(5)

##### Specific Purpose:

The specific purpose is to amend Section 87585(a) to 1) delete the word "applicant's", 2) adopt the phrase "of the prospective resident", 3) insert a colon after the word "individual", and 4) divide the sentence into five specific points numbered sequentially 87585(a)(1), 87585(a)(2), 87585(a)(3), 87585(a)(4), and 87585(a)(5).

Section 87585(a)(5) is being adopted to require the referring agency or facility, or its designee, as defined by Section 87114(b)(2)(A), to provide to the administrator of an RCFE all information in its possession concerning any history of dangerous propensity of the client prior to placement in the RCFE.

##### Factual Basis:

In 1996, the legislature enacted SB 571, Chapter 434 (Statutes of 1996). SB 571 added Health and Safety Code Section 1569.316(a). Amending 87585(a) and numbering the five specific points in the sentence to correspond to Sections 87585(a)(1)-(5) ensures consistency with the provisions of Health and Safety Code Section 1569.316(a).

The Department is adopting Section 87585(a)(5) to require the referring agency or facility, or its designee, to provide to the administrator of an RCFE, all information in its possession concerning any history of dangerous propensity of the client prior to placement in the RCFE.

### New Section 87587(c)

#### Specific Purpose:

The specific purpose is to adopt Section 87587(c) to clarify that the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, when there is significant change in the resident's condition, or once every 12 months, whichever occurs first, as specified in Section 87583.1.

#### Factual Basis:

In 1998, the legislature enacted AB 1338, Chapter 578 (Statutes of 1998). AB 1338 added Health and Safety Code Section 1569.156. Section 87587(c) requires the licensee to arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, when there is significant change in the resident's condition, or once every 12 months, whichever occurs first. Adoption of Section 87587(c) ensures consistency with the provisions of Health and Safety Code Section 1569.156.

### New Sections 87700(c) and (c)(1)

#### Specific Purpose

The specific purpose is to adopt Section 87700(c) to clarify that licensees who employ or permit health care practitioners to provide care to residents shall comply with specific requirements specified by Section 87700(c)(1).

The specific purpose is to adopt Section 87700(c)(1) to specify that licensees who employ or permit health care practitioners to provide care to residents shall post a visible notice in a prominent location that states, "Section 680 of the Business and Professions Code requires health care practitioners to disclose their name and license status on a name tag in at least 18-point type while working in this facility."

#### Factual Basis:

In 1999, the legislature enacted AB 1433, Chapter 411 (Statutes of 1999). AB 1433 added Business and Professions Code Section 680. Sections 87700(c) and (c)(1) require licensees who employ or permit health care practitioners to provide care to residents to post a visible notice in a prominent location that states, "Section 680 of the Business and Professions Code requires health care practitioners to disclose their name and license status on a name tag in at least 18-point type while working in this facility". Adoption of Sections 87700(c) and (c)(1) ensures consistency with the provisions of Business and Professions Code Section 680.

### New Section 87702(b)

### Specific Purpose

The specific purpose is to adopt Section 87702(b) to clarify that an RCFE may provide incidental medical care to its residents through a home health agency (HHA) when the licensee meets specified conditions mandated by Health and Safety Code Section 1569.725.

### Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b) clarifies that an RCFE may provide incidental medical care to its residents through a HHA when the licensee meets specified conditions mandated by Health and Safety Code Section 1569.725. Adoption of Section 87702(b) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

### New Section 87702(b)(1)

#### Specific Purpose

The specific purpose is to adopt Section 87702(b)(1) to clarify that the licensee remains in substantial compliance with the requirements of Chapter 3.2 of the California Health and Safety Code, Sections 1569-1569.87, and of Division 6, Chapter 8 of Title 22, of the California Code of Regulations governing RCFEs, i.e. one of the specified conditions an RCFE must comply with to provide incidental medical care to its residents through a HHA.

#### Factual Basis

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(1) specifies that an RCFE may provide incidental medical care to its residents through a HHA when the licensee remains in substantial compliance with the requirements of Chapter 3.2 of the California Health and Safety Code, Sections 1569-1569.87, and of Division 6, Chapter 8 of Title 22, of the California Code of Regulations governing RCFEs. Adoption of Section 87702(b)(1) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

### New Section 87702(b)(2)

#### Specific Purpose:

The specific purpose is to adopt Section 87702(b)(2) to clarify that the licensee provide the supporting care and supervision needed to meet the needs of the resident receiving home health care, i.e. one of the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(2) specifies that an RCFE may provide incidental medical care to its residents through a HHA when the licensee provides the supporting care and supervision needed to meet the needs of the resident receiving home health care. Adoption of Section 87702(b)(2) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

New Section 87702(b)(3)

Specific Purpose

The specific purpose is to adopt Section 87702(b)(3) to specify that the licensee informs the HHA of any duties the regulations prohibit facility staff from performing, and of any regulations that address the resident's specific condition(s), i.e. one of the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(3) specifies that an RCFE may provide incidental medical care to its residents through a HHA when the licensee informs the HHA of any duties the regulations prohibit facility staff from performing, and of any regulations that address the resident's specific condition(s). Adoption of Section 87702(b)(3) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

New Section 87702(b)(4)

Specific Purpose

The specific purpose is to adopt Section 87702(b)(4) to clarify that the licensee and HHA agree in writing on the responsibilities of the HHA, and those of the licensee in caring for the resident's medical condition(s), i.e. one of the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(4) specifies that an RCFE may provide incidental medical care to its residents through a HHA when the licensee and HHA agree in writing on the responsibilities of the HHA, and those of the licensee in caring for the resident's medical condition(s). Adoption of Section 87702(b)(4) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

#### New Section 87702(b)(4)(A)

##### Specific Purpose

The specific purpose is to adopt Section 87702(b)(4)(A) to clarify that the written agreement between the licensee and HHA shall reflect the services, frequency and duration of care, i.e. one of the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

##### Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(4)(A) specifies that an RCFE may provide incidental medical care to its residents through a HHA when the written agreement between the licensee and HHA shall reflect the services, frequency and duration of care. Adoption of Section 87702(b)(4)(A) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

#### New Section 87702(b)(4)(B)

##### Specific Purpose

The specific purpose is to adopt Section 87702(b)(4)(B) to clarify that the written agreement between the licensee and HHA shall include day and evening contacts for the resident at the facility and the HHA, and the method of communication between both parties, which may include verbal contact, electronic mail, logbook, or specific page in the clinical record, i.e. one of the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

##### Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(4)(B) specifies the type of detailed contact and communication information needed in the resident's record, i.e. day and evening contacts for the resident at the facility and the HHA and the method of communication between both parties, which may include verbal contact, electronic mail, logbook, or specific page in the clinical record. Adoption of Section 87702(b)(4)(B) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

#### New Section 87702(b)(4)(C)

##### Specific Purpose

The specific purpose is to adopt Section 87702(b)(4)(C) to clarify that the written agreement between the licensee and HHA shall be signed by the licensee or licensee representative, and representative of the HHA, and placed in the resident's file, i.e. one of

the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 1231 added Health and Safety Code Section 1569.725. Section 87702(b)(4)(C) specifies that the written agreement between the licensee and HHA shall be signed by the licensee or licensee representative, and representative of the HHA, and placed in the resident's file. Adoption of Section 87702(b)(4)(C) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

New Section 87702(c)

Specific Purpose

The specific purpose is to adopt Section 87702(c) to clarify that the use of HHAs to care for a resident's medical conditions does not expand the scope of care and supervision the licensee is permitted to care for in Chapter 8 of Title 22 of the California Code of Regulations governing RCFEs, i.e. one of the specified conditions an RCFE must be in compliance with to provide incidental medical care to its residents through a HHA.

Factual Basis:

In 1997, the legislature enacted SB 1231, Chapter 494 (Statutes of 1997). SB 123 added Health and Safety Code Section 1569.725. Section 87702(c) specifies that the use of HHAs to care for a resident's medical conditions does not expand the scope of care and supervision the licensee is permitted to care for in Chapter 8 of Title 22 of the California Code of Regulations governing RCFEs. Adoption of Section 87702(c) ensures consistency with the provisions of Health and Safety Code Section 1569.725.

New Section 87807(a)

Specific Purpose

The specific purpose is to adopt Section 87807(a) to clarify for any housing project for elderly or disabled persons, or both, to be exempt from licensure, they must meet the federal requirements specified in Health and Safety Code Section 1568.03(c)(5).

Factual Basis:

In 1998, the legislature enacted AB 2686, Chapter 945 (Statutes of 1998). AB 2686 added Health and Safety Code Sections 1505 and 1568.03. Section 87807(a) specifies for any housing project for elderly or disabled persons, or both, to be exempt from

licensure, they must meet the federal requirements specified in Health and Safety Code Section 1568.03(c)(5). Adoption of Section 87807(a) ensures consistency with the provisions of Health and Safety Code Section 1568.03(c)(5).

New Handbook Section 87807(a)

Specific Purpose:

The specific purpose of this Section is to adopt, as handbook, the federal requirements specified in Health and Safety Code Section 1568.03(c)(5), i.e. that any housing project for elderly or disabled persons, or both, where supportive services are made available to residents, must comply with for exemption from licensure.

Factual Basis:

Health and Safety Code Section 1568.03(c)(5) defines the federal requirements for any housing project for elderly or disabled persons, or both, where supportive services are made available to residents, that must be complied with when seeking an exemption from licensure. Adoption of Section 87807(a)(Handbook) ensures consistency with the provisions of Health and Safety Code Section 1568.03(c)(5).

Section 87854(d)

Specific Purpose

The specific purpose is to amend Section 87854(d) to correctly reference “Section 87854(c)” instead of “Section 87854(d)”.

Factual Basis:

This amendment is necessary to correct an incorrect reference citation.

b) Identification of Documents Upon Which Department Is Relying

AB 3624	Chapter 750	Statutes of 1988
SB 994	Chapter 888	Statutes of 1991
SB 1558	Chapter 1088	Statutes of 1994
SB 571	Chapter 434	Statutes of 1996
AB 747	Chapter 617	Statutes of 1997
SB 1231	Chapter 494	Statutes of 1997
AB 1338	Chapter 578	Statutes of 1998
AB 2155	Chapter 660	Statutes of 1998
AB 2686	Chapter 945	Statutes of 1998
AB 1433	Chapter 411	Statutes of 1999

California Department of Social Services letter dated December 9, 1999, concerning “Request for Reconsideration of Petition to Amend Section 87118(a) to Prohibit Discrimination on the Basis of Actual or Perceived Sexual Orientation”

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact on Businesses

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.